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July 13, 2015

***Via ECF (S.D.N.Y. and C.D. Cal.) and Email (D. Kan.)***

The Honorable Denise L. Cote  
United States District Court for the Southern District of New York  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, NY 10007

The Honorable John W. Lungstrum  
The Honorable James P. O'Hara  
United States District Court for the District of Kansas  
500 State Avenue, Suite 517  
Kansas City, KS 66101

The Honorable George H. Wu  
United States District Court for the Central District of California  
312 North Spring Street  
Los Angeles, CA 90012-4701

Re: *NCUA v. RBS Securities, Inc.*, No. 11-5887 (C.D. Cal.)  
*NCUA v. RBS Securities, Inc.*, No. 11-2340 (D. Kan.)  
*NCUA v. RBS Securities, Inc.*, No. 13-6726 (S.D.N.Y.)  
*NCUA v. Morgan Stanley & Co.*, No. 13-6705 (S.D.N.Y.) (Lead Case)

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Dear Judges Cote, Lungstrum, O'Hara, and Wu:

NCUA, as liquidating agent, respectfully seeks leave to file this short reply to respond to a misleading statement in RBS's opposition (ECF No. 374) to NCUA's request for a protective order (ECF No. 373).

RBS misleadingly claims that NCUA has provided it with short notice of certain depositions of Credit Suisse employees. *First*, NCUA requested those deposition dates from Credit Suisse weeks ago; the formal notices served last week simply memorialize dates agreed upon by the parties after those informal discussions. *See* Exhs. A, B. *Second*, NCUA will not use those depositions against RBS in any way, so RBS is not receiving short notice of these depositions, and has no standing to object. *See* ECF No. 101 ("MDP"), § 10(b) (requiring NCUA to "provide notice of [a] fact deposition to the other Defendant Group" if it intends to use that deposition against such Defendant Group). NCUA has not provided notice under MDP § 10(b) of any deposition of any Credit Suisse employee, including the two to which RBS refers. *Third*, RBS claims (at 3) that it shares "an overlapping deal" with Credit Suisse, but fails to note that the only such deal was reinstated recently in the *Credit Suisse* action in Kansas. NCUA has not obtained any deposition discovery regarding that deal (or any other reinstated Kansas certificate) because Credit Suisse has not provided relevant documents. *See* ECF No. 348 (establishing supplemental discovery schedule for reinstated Kansas certificates). *Fourth*, RBS has never attended any deposition of a Credit Suisse employee in these coordinated actions.

If RBS had genuinely believed that NCUA had provided insufficient notice of these Credit Suisse depositions, it could have raised this issue with NCUA, and NCUA would have made clear that NCUA did not intend to use those depositions against RBS and so RBS would suffer no prejudice from those deposition notices.

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/s/ David C. Frederick

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